

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Case No. 1: 02 cr 05020 OWW
)	
Plaintiff,)	<u>DETENTION ORDER FOR</u>
V.)	<u>DEFENDANT ON PROBATION</u>
)	<u>OR SUPERVISED RELEASE</u>
APRIL D. CERVANTES,)	
)	
Defendant,)	
_____)	

A. Order For Detention

After conducting a preliminary hearing and detention hearing pursuant to Federal Rules of Criminal Procedure 32.1(a)(1) and 46(c) and 18 U.S.C. §3143(a) of the Bail Reform Act, the Court orders the above-named defendant detained pursuant to 18 U.S.C. §3143.

B. Statement Of Reasons For The Detention

The Court orders the defendant's detention because it finds that there is probable cause to hold defendant for a revocation hearing pursuant to Federal Rules of Criminal Procedure 32.1.
The Court further finds that defendant has failed to show, by clear and convincing evidence that he is neither a flight risk nor a danger to the safety of any other person or the community if released under 18 U.S.C. sections 3142(b) or (c).

C. Findings Of Fact

The Court's findings are based on the evidence which was presented in Court and that which was contained in the Probation Report and Petition and includes the following:

(1) Nature and circumstances of the offense for which defendant was originally convicted:

- X (a) The crime: two counts of possession of Stolen Mail is a serious crime and carries a maximum penalty of - 10 years
- (b) The original commitment offense is a crime of violence.
- (c) The original commitment offense is punishable by life imprisonment or death.
- (d) The original commitment offense is one for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(2) The weight of the evidence against the defendant is high.

(3) The history and characteristics of the defendant including:

(a) General Factors:

- The defendant appears to have a mental condition which may affect whether the defendant will appear.
- The defendant has no family ties in the area.
- X The defendant has no steady employment.
- X The defendant has no substantial financial resources.
- The defendant is not a long time resident of the community.
- The defendant does not have any significant community ties.

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(b) Past conduct of the defendant:

- ☒ The defendant has a history relating to drug abuse.
☐ The defendant has a history relating to alcohol abuse.
☐ The defendant has a history relating to mental health problems.
☐ The defendant has a significant prior criminal record.
☐ The defendant has a prior record of failure to appear at court proceedings.
☒ Other: there is probable cause to believe that defendant absconded from supervision and re-offended while on supervised release.

(c) Whether the defendant was on probation, parole, or release by a court:

At the time of the current arrest, the defendant was on:

- ☐ Probation
☐ Parole
☐ Release pending trial, sentence, appeal or completion of sentence.

(d) Other Factors:

- ☐ The defendant is an illegal alien and is subject to deportation.
☐ The defendant is a legal alien and will be subject to deportation if convicted. Other:

(4) The nature and seriousness of the danger posed by the defendant's release are as follows:

D. Additional Directives

Pursuant to 18 U.S.C. §3142(i)(2)-(4), the Court directs that:

The defendant be committed to the custody of the Attorney General for confinement in a corrections facility; and

The defendant be afforded reasonable opportunity for private consultation with his counsel; and

That, on order of a court of the United States, or on request of an attorney for the Government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

IT IS SO ORDERED.

Dated: October 31, 2005

3b142a

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE